

December 6, 2018

David G. Jones  
City Auditor  
P.O. Box 94729  
Seattle, WA 98124-4729

Mr. Jones:

As you may have seen from news reports, there have been a spate of recent incidents where city officials used private email accounts to conduct official city business. For your reference, we have attached news reports of such incidents, as well as representative examples of emails demonstrating that this is, in fact, an actual practice occurring today.

As representatives of the local media who rely on the state Public Records Act and the fulfillment of public document requests to do our jobs in holding our local government accountable to the people, we are increasingly concerned that the practice of city officials using private email accounts to conduct city business is both spreading and increasing in sophistication, in violation of the Public Records Act and undermining government transparency and accountability.

We recognize that city elected officials and their staff face challenging constraints: all communications regarding city business are a matter of public record and must be archived as such, while many communications outside of city business – notably including political and election campaign activity – are prohibited from utilizing city-owned resources and must be conducted through outside mechanisms. However, as the recent revelations on the “head tax” repeal demonstrate, officials can easily cross the line between the two without taking care to ensure that the law is being followed. Current practice seems to invoke an “honor system” in which officials using private email accounts voluntarily turn over relevant messages in response to public document requests and legal discovery requests. A system based on voluntary compliance by government officials is dubious at best even when compliance is high; however, in the face of the recent failures of that system, we believe there is an urgent need for a comprehensive review of the city’s policies and practices in this area. This is a task for which the City Auditor’s office is uniquely positioned.

We collectively request that your office use its authority for independent investigations to undertake a broad, systemic review of the practice of City of Seattle employees and officials using private email accounts, including:

- Quantifying how widespread the practice is;
- Reviewing the written and unwritten policies regarding city officials’ and employees’ use of private email accounts to conduct city business;
- Identifying any ongoing potential violations of the Public Records Act through the use of private email accounts by city employees and officials;
- Auditing whether email communications through city officials’ and employees’ private accounts are properly and timely retrieved and delivered in response to Public Document Requests and legal discovery requests submitted to the city;

- Assessing the risk and likelihood of abuse where city officials and employees have been granted the ability to use private email accounts to conduct official city business;
- Assessing whether appropriate procedures are in place to ensure that city officials and employees may not suppress potentially damaging or incriminating email communications from the city's Public Records through the use of private email accounts;
- Assessing whether private email accounts used for official city business are properly archived, including after the city officials and employees who use them leave their positions with city government;
- Reviewing the best practices of other jurisdictions in use of private email accounts by city officials and employees;
- Providing recommendations on changes to the city's written policies and practices, and to the Seattle Municipal Code (including the Seattle Ethics Code) to ensure that the city of Seattle meets its legal and ethical obligations to transparency, accountability, and maintaining complete and accurate public records.

While private email accounts are the controversy of the day, it's worth pointing out that other forms of private electronic communication are equally implicated in this issue, including mobile phone text messages, Facebook and Twitter private messages, and other "apps" such as WhatsApp and Signal. We have also attached some representative text messages to demonstrate the issues this raises. We would further recommend that you consider including city officials' use of these other media in your review.

We recognize that the city has many pressing needs, but if this can be prioritized in the City Auditor's Office plan and budget then we believe the results could ultimately save the city substantial legal costs while improving the transparency of government for citizens.

We appreciate your attention to this matter and stand ready to assist you as you take this forward.

Regards,

Ashley Archibald  
Real Change

Lester Black  
The Stranger

Erica C. Barnett  
The C is for Crank and Seattle Magazine

The Editors of Crosscut

Nathalie Graham  
The Stranger

Kevin Schofield  
SCC Insight

Cc: City Council President Bruce Harrell, Mayor Jenny Durkan, City Attorney Pete Holmes